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SUBJECT: Southern Sudan: Chief Justice Lays Out Judicial Structures

¶1. Summary: Southern Sudan Chief Justice Ambrose Riing Thiik described the structure of the Southern Courts and said that the system was beginning to operate throughout the South. However, with little money and few qualified personnel, he admitted it was slow going. In a meeting with the Acting Consul General (A/CG) on August 21, Riing described a hierarchical, seven-tiered structure starting with two levels of traditional lay courts and ending with the Supreme Court of Southern Sudan as the final court of appeal. The courts are now established, with the last, the Court of Appeals, founded in August. Now, the judiciary is working to attract qualified candidates, including women, and sensitizing judges to the issues of minority, women's, and human rights. End Summary.

From Village Chief to Chief Justice in 7 Easy Steps

¶2. The first court for traditional issues is the Executive Chief's Court, which consists of three village elders and a jurisdiction that matches the chief's territory. According to Southern Sudanese law, at least one of the judges must be a woman, but Riing admitted that this requirement has not yet been met anywhere. These courts, basically providing a binding arbitration mechanism, are functioning and handle the vast majority of legal issues. The court of appeal for the Executive Chief's Court is the Regional or Boma Court. With five members drawn from the Executive Courts, it can review the lower court's decision and ensure it meets the standards of traditional practice.

¶3. The next court of appeal is the Payam Court, bridging customary and common-law justice. The three lay judges are the first to rule on violations of the penal code, and they review traditional cases that come rising from lower courts. Riing hopes that eventually all three judges on the Payam Court will be paralegals or even lawyers, but at present the standard is for the chairman to have had some form of formal education. This court is the first level with power of imprisonment.

¶4. Appeals from the Payam Court go to the County Court, which is divided into three grades. This court is run by legal professionals and makes its decisions based exclusively upon the English common law system. After the County Court is the State Court. Capital cases go directly to the State Court, although the County Court performs the magisterial inquiries and prepares capital cases for the State judges.

¶5. Any case on appeal from the State Court would go to one of three Courts of Appeal, roughly equivalent to a U.S. Federal Circuit Court. There are three courts of appeal covering each of the three regions of Southern Sudan: Bahr al-Ghazal, Equatoria, and Upper Nile. Each Court of Appeal has three judges, and will eventually have a fourth judge as an alternate once there are enough qualified officials. These judges were appointed on July 24 and took office on August 15. Finally, the highest court in the South is the Supreme Court, with seven justices. This court, rather than the national Supreme Court in Khartoum, serves as the court of final appeal.

¶16. The A/CG asked the Chief Justice how the judiciary would ensure the standards of human rights and gender equality are met by the traditional courts, whose decisions are based upon customary laws that often are not sensitive to these issues. Also, because the traditional courts use customary laws for individuals of their own ethnic groups, the A/CG pointed out that people from minority groups and internally displaced people are often disadvantaged. Riing admitted that these are legitimate issues, but explained that the judiciary is already taking steps to address them. He said that as early as 2000, the SPLM began human rights training for its judges in SPLM-controlled areas. With respect to progress, Riing highlighted the as-yet-unfulfilled law requiring women on Executive Courts, and the fact that there 15 women judges in the County Courts and two women on higher courts.

¶17. Riing also explained that because traditional courts are based upon local practice, they are heavily influenced by precedence. Riing described a 2004 child redemption case in Rumbek where he organized a meeting of chiefs that decided to overturn change local custom in the interest of gender rights. The case involved a man who refused to marry a woman carrying his child. The woman married another man and they raised the child, a daughter. When the girl turned 15, the man reappeared and demanded custody of the daughter, who now had value as she would be expected to receive a dowry upon marriage. The chiefs ruled that the man had no right to the daughter because he had ample opportunity to claim her earlier. The custom was changed to require a man to claim a daughter as soon as he learns of her, or before 10 years of age, whichever comes first. This was the first instance of traditional law changing to limit the rights of a father to redeem a daughter.

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¶18. Riing said that protecting the rights of minorities and varying ethnicities would be more difficult. In urban areas, he said that the Executive Courts reflect regional ethnic diversity. In other cases, the penal appeals court could review any traditional court cases to ensure the decision was in line with "justice, equality, and good conscience."

¶19. Riing said that the biggest problem facing the courts was human resources. While judges had been appointed at all levels, most had little or no staff. The government currently is sending individuals to Kenya and Uganda, including participating in a 9-month course at a Ugandan law development center, to train qualified candidates. Riing also expressed interest in possible exchanges with the U.S. He said the situation was not as dire as some had said, because the University of Cairo in Khartoum trained students, like him, in common law until the National Islamic Front closed the University after it took power in 1989.

Bio Note

¶10. Ambrose Riing Thiik is a Dinka from Gogrial East in the northern part of Bahr al-Ghazal. He graduated in law from the University of Cairo in Khartoum in 1966 and received a master's degree in law in England. After serving on the Court of Appeals in 1972, Riing entered politics and served as the Minister of Information and Culture in the first Southern Government, as well as a Member of the Southern Parliament with the ruling Sudan Socialist Union Party. In the early 1980s, he was a political prisoner in Akobo for nine months, where he was visited by John Garang, who described his plans for rebellion and recruited Riing into the SPLM. After he was released, Riing moved to England, where he organized the UK branch of the Sudan Relief and Rehabilitation Commission (SRRC) and raised money for the SPLM. In 1994, he was put in charge of legal affairs for the SPLM, but refused the position of Chief Justice. HE finally accepted the post of Chief Justice for the SPLM in 1999 and was appointed as Chief Justice for the Judiciary of Southern Sudan in December 2005. Riing's family still lives in

England.

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